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(J&J 3.0-071)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
Hanuman B. Jampani, et al.

U.S. Serial No.: 10/029,506

Confirmation No.: 4582

Filed: December 21, 2001

For: BIO-COMPATIBLE MEANS FOR
CONTROLLED DRUG DELIVERY TO
TISSUE AND METHOD OF USE

X

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Group Art Unit: 1615

4/Election
w/traversal
c/m
4-21-03

Examiner: Fubara, Blessing M.

Bet
5-3-03

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(Signature)

(Date)

ELECTION

Dear Sir:

This is in response to an Office Action dated March 19, 2003, for which a shortened statutory period of response of one-month is set to expire on Monday, April 21, 2003.

The Examiner has requested an election under 35 U.S.C. 121 between the following species: specific cationic analgesic; specific antibiotic; specific antimicrobial; specific antiviral; specific anti-inflammatory; specific antidiabetic; specific anticholinergic; specific antidepressant; specific antihistamine; specific anticonvulsant; specific antimigrane; specific antineoplastic; specific antimaterials; specific immunosuppressants; specific cardiovascular drug or specific growth factor or hemostatic agents.

Applicants respectfully traverse the election requirement. After carefully reviewing the Office Action, applicants respectfully submit that the Examiner's request for designation of a single disclosed species is misdirected. The crux of the invention does not lie in the specific biologically active agents from which the Examiner has requested the election of a single disclosed species. The invention resides in applicants' discovery of particularly helpful combinations of carrier and pharmaceutically active agent wherein, when the carrier is anionic, the active agent should be cationic and vice versa, when the carrier is cationic, the agent should be anionic.

It is the view of applicants that the electrochemical nature of the bioactive material, provided that this is combined with the criteria set forth in Claim 1 of the present application, is what matters, rather than the bioactive property of said agent.

Nevertheless, in compliance with the requirements of the rule, applicants elect Bupivacaine, a specific cationic analgesic, to be elected as the single disclosed species. In view of the foregoing statements, it is applicants' view that each and every claim in the application reads upon said species.

In view of the foregoing election, a full examination and prompt passage to issue of this application is respectfully solicited. Should there be any questions or other matters whose resolution could be advanced by a telephone call, the Examiner is cordially invited to contact the undersigned attorney at his number below.

It is believed that no fees are due with this response. However, should there be any fees required as a result of this Election, including extension fees, the Examiner is authorized to charge them to Deposit Account No. 19-1218.

Respectfully Submitted,

SELITTO, BEHR & KIM



By: Omri M. Behr
Reg. No. 22,940

203 Main Street
Metuchen, New Jersey 08840-2727
(732) 744-1001

OMB/SMC/eb